

# **JOURNAL OF THE SENATE**

## **NINETY-FIRST SESSION**

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TWENTY-FIRST DAY

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STATE OF SOUTH DAKOTA  
Senate Chamber, Pierre  
Tuesday, February 16, 2016

The Senate convened at 2:00 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Rev. Mercy Hobbs, followed by the Pledge of Allegiance led by Senate page Emily Schmitz.

Roll Call: All members present.

### **APPROVAL OF THE JOURNAL**

MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that the Secretary of the Senate has had under consideration the Senate Journal of the twentieth day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,  
Gary Cammack, Chair

Which motion prevailed.

**HONORED GUEST**

The President introduced United States Congresswoman Kristi Noem to the body who then addressed the members of the Senate.

**COMMUNICATIONS AND PETITIONS**

January 21, 2016

The Honorable Matt Michels  
President of the Senate  
State Capitol  
Pierre, SD 57501

Dear President and Members of the Senate:

Pursuant to the provisions of 24-13 of the South Dakota Codified Laws and subject to your consent, I have the honor to inform you that I have reappointed Patricia White Horse Carda, Charles Mix County, Wagner, South Dakota, to the Board of Pardons and Paroles.

This appointment is effective immediately, and shall continue until January 21, 2020.

Sincerely,  
Dennis Daugaard  
Governor

The President announced the referral of the appointment to the Committee on Judiciary.

February 12, 2016

Mr. President and Members of the Senate:

I have the honor to inform you that on February 12, 2016, I approved Senate Bills 29 and 35, and the same have been deposited in the office of the Secretary of State.

Respectfully submitted,  
Dennis Daugaard  
Governor

## REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

The Committee on Education respectfully reports that it has had under consideration HB 1013 and 1014 and returns the same with the recommendation that said bills do pass and be placed on the consent calendar.

Also MR. PRESIDENT:

The Committee on Education respectfully reports that it has had under consideration SB 129 and returns the same with the recommendation that said bill be amended as follows:

129ra

On page 1, line 11, of the printed bill, after "." insert "The training required may be accomplished through self-review of suicide prevention materials that meet the guidelines developed by the board.".

129sa

On page 1, line 11, of the printed bill, after "." insert "The requirement for suicide awareness and prevention training for initial certification or to renew a certificate begins after July 1, 2017."

And that as so amended said bill do pass.

Respectfully submitted,  
Deb Soholt, Chair

Also MR. PRESIDENT:

The Joint Committee on Appropriations respectfully reports that it has had under consideration SB 114 and returns the same with the recommendation that said bill do pass.

Also MR. PRESIDENT:

The Joint Committee on Appropriations respectfully reports that it has had under consideration SB 75 and returns the same with the recommendation that said bill be amended as follows:

75ma

1 On page 2, line 9, of the printed bill, delete "fifty".

2 On page 2, line 10, delete "\$250,000" and insert "\$200,000".

3 On page 2, after line 17, insert:

4 " Section 7. Whereas, this Act is necessary for the support of the state government and its  
5 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in  
6 full force and effect from and after its passage and approval.".

7 75mta

8 On page 1, line 2, of the printed bill, delete "and".

9 On page 1, line 3, after "therefor" insert ", and to declare an emergency".

10 And that as so amended said bill do pass.

11 Respectfully submitted,  
12 Deb Peters, Co-Chair

13 Also MR. PRESIDENT:

14 The Committee on Agriculture and Natural Resources respectfully reports that it has had  
15 under consideration HB 1082 and returns the same with the recommendation that said bill do  
16 pass.

17 Also MR. PRESIDENT:

18 The Committee on Agriculture and Natural Resources respectfully reports that it has had  
19 under consideration HB 1010 and returns the same with the recommendation that said bill do  
20 pass and be placed on the consent calendar.

21 Also MR. PRESIDENT:

22 The Committee on Agriculture and Natural Resources respectfully reports that it has had  
23 under consideration SB 4 which was tabled.

1 Also MR. PRESIDENT:

2 The Committee on Agriculture and Natural Resources respectfully reports that it has had  
3 under consideration SB 149 which was deferred to the 41<sup>st</sup> Legislative Day.

4 Respectfully submitted,  
5 Gary Cammack, Chair

6 Also MR. PRESIDENT:

7 The Committee on Judiciary respectfully reports that it has had under consideration SB 142  
8 and HB 1105 and returns the same with the recommendation that said bills do pass and be  
9 placed on the consent calendar.

10 Also MR. PRESIDENT:

11 The Committee on Judiciary respectfully reports that it has had under consideration SB 97  
12 and returns the same with the recommendation that said bill be amended as follows:

13 97yb

14 On the printed bill, delete everything after the enacting clause and insert:

15 " Section 1. That chapter 23A-3 be amended by adding a NEW SECTION to read:

16 Any charge or conviction resulting from a case where a petty offense, municipal ordinance  
17 violation or a Class 2 misdemeanor was the highest charged offense shall be automatically  
18 removed from a defendant's public record after ten years if all court-ordered conditions on the  
19 case have been satisfied. However, the case record will remain available to court personnel or  
20 as authorized by order of the court."

21 97ytb

22 On page 1, line 1, of the printed bill, after "all" insert "petty offenses, municipal ordinance  
23 violations, and".

24 And that as so amended said bill do pass.

25 Also MR. PRESIDENT:

26 The Committee on Judiciary respectfully reports that it has had under consideration SB 140  
27 and returns the same with the recommendation that said bill be amended as follows:

28 140ya

1 On page 3, line 2, of the printed bill, delete "without parole".

2 140yta

3 On page 1, line 1, of the printed bill, delete "without parole".

4 And that as so amended said bill do pass.

5 Also MR. PRESIDENT:

6 The Committee on Judiciary respectfully reports that it has had under consideration  
7 HB 1183 and returns the same with the recommendation that said bill be amended as follows:

8 1183oa

9 On page 1, line 10, of the House Judiciary Committee engrossed bill, before "Any" insert  
10 "However, a magistrate court with a magistrate judge presiding may not make any child custody  
11 decisions.".

12 And that as so amended said bill do pass and be placed on the consent calendar.

13 Also MR. PRESIDENT:

14 The Committee on Judiciary respectfully reports that it has had under consideration SB 96  
15 and returns the same with the recommendation that said bill be referred to the Joint Committee  
16 on Appropriations.

17 Also MR. PRESIDENT:

18 The Committee on Judiciary respectfully reports that it has had under consideration SJR 3  
19 which was deferred to the 41<sup>st</sup> Legislative Day.

20 Respectfully submitted,  
21 Craig Tieszen, Chair

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1 The question being on Sen. Olson's motion that HCR 1012 be concurred in.

2 And the roll being called:

3 Yeas 34, Nays 1, Excused 0, Absent 0

4 Yeas:

5 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Ewing; Fiegen; Frerichs; Greenfield  
6 (Brock); Hagggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie);  
7 Jensen (Phil); Monroe; Novstrup (David); Olson; Omdahl; Otten (Ernie); Parsley; Peters;  
8 Peterson (Jim); Rampelberg; Rusch; Shorma; Soholt; Solano; Sutton; Tidemann; Van Gerpen;  
9 Vehle; White

10 Nays:

11 Tieszen

12 So the motion having received an affirmative vote of a majority of the members-elect, the  
13 President declared the motion carried and HCR 1012 was concurred in.

14 Sen. Brown moved that SB 96 be referred to the Joint Committee on Appropriations

15 Which motion prevailed.

16 Sen. Brown moved that HB 1098 be placed to follow 1210 on today's calendar.

17 Which motion prevailed.

18 Sen. Brown moved that SB 107 and 159 be deferred to Wednesday, February 17<sup>th</sup>, the  
19 22<sup>nd</sup> legislative day.

20 Which motion prevailed.

21 **FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS**

22 HB 1081: FOR AN ACT ENTITLED, An Act to make an appropriation to fund tax refunds  
23 for elderly persons and persons with a disability, to revise the income eligibility requirements  
24 for property and sales tax refunds, and to declare an emergency.

25 Was read the first time and the President Pro tempore waived the referral to the standing  
26 committee pursuant to Joint Rule 6D-1.



1 HB 1119: FOR AN ACT ENTITLED, An Act to revise the criteria for incorporation of a  
2 new municipality.

3 Was read the first time and referred to the Committee on Local Government.

4 HB 1163: FOR AN ACT ENTITLED, An Act to revise the periods of time during which  
5 veterans may use tuition benefits at institutions under the control of the Board of Regents.

6 Was read the first time and referred to the Committee on Education.

7 HB 1170: FOR AN ACT ENTITLED, An Act to make an appropriation to reimburse  
8 certain eligible health care professionals who have complied with the requirements of the rural  
9 health care facility recruitment assistance program and to declare an emergency.

10 Was read the first time and the President Pro tempore waived the referral to the standing  
11 committee pursuant to Joint Rule 6D-1.

12 **SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS**

13 SB 98: FOR AN ACT ENTITLED, An Act to revise and repeal certain provisions  
14 regarding pork production.

15 Was read the second time.

16 The question being "Shall SB 98 pass?"

17 And the roll being called:

18 Yeas 26, Nays 9, Excused 0, Absent 0

19 Yeas:

20 Bradford; Brown; Cammack; Curd; Ewing; Fiegen; Greenfield (Brock); Haggar (Jenna);  
21 Haverly; Heineman (Phyllis); Holien; Jensen (Phil); Novstrup (David); Olson; Omdahl; Otten  
22 (Ernie); Peters; Rampelberg; Rusch; Shorma; Soholt; Solano; Tidemann; Tieszen; Van Gerpen;  
23 Vehle

24 Nays:

25 Buhl O'Donnell; Frerichs; Heinert; Hunhoff (Bernie); Monroe; Parsley; Peterson (Jim); Sutton;  
26 White

27 So the bill having received an affirmative vote of a majority of the members-elect, the  
28 President declared the bill passed and the title was agreed to.

SB 136: FOR AN ACT ENTITLED, An Act to permit certain cropland along lakes, rivers, and streams to be assessed as noncropland.

Was read the second time.

The question being "Shall SB 136 pass?"

And the roll being called:

Yeas 35, Nays 0, Excused 0, Absent 0

Yeas:

Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Ewing; Fiegen; Frerichs; Greenfield (Brock); Hagggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Jensen (Phil); Monroe; Novstrup (David); Olson; Omdahl; Otten (Ernie); Parsley; Peters; Peterson (Jim); Rampelberg; Rusch; Shorma; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; White

So the bill having received an affirmative vote of a majority of the members-elect, the President declared the bill passed and the title was agreed to.

## SECOND READING OF HOUSE BILLS AND JOINT RESOLUTIONS

HB 1059: FOR AN ACT ENTITLED, An Act to revise provisions related to the garnishment of debts and property.

Was read the second time.

The question being "Shall HB 1059 pass as amended?"

And the roll being called:

Yeas 27, Nays 8, Excused 0, Absent 0

Yeas:

Brown; Cammack; Curd; Ewing; Fiegen; Greenfield (Brock); Hagggar (Jenna); Haverly; Heineman (Phyllis); Holien; Jensen (Phil); Monroe; Novstrup (David); Olson; Omdahl; Otten (Ernie); Peters; Rampelberg; Rusch; Shorma; Soholt; Solano; Tidemann; Tieszen; Van Gerpen; Vehle; White

Nays:

Bradford; Buhl O'Donnell; Frerichs; Heinert; Hunhoff (Bernie); Parsley; Peterson (Jim); Sutton

So the bill having received an affirmative vote of a majority of the members-elect, the President declared the bill passed and the title was agreed to.

1 HB 1210: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding on-  
2 sale alcoholic beverage licenses for municipal auditoriums and convention halls and to declare  
3 an emergency.

4 Was read the second time.

5 The question being "Shall HB 1210 pass?"

6 And the roll being called:

7 Yeas 34, Nays 1, Excused 0, Absent 0

8 Yeas:

9 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Ewing; Fiegen; Frerichs; Greenfield  
10 (Brock); Haggard (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie);  
11 Jensen (Phil); Monroe; Novstrup (David); Olson; Omdahl; Otten (Ernie); Parsley; Peters;  
12 Peterson (Jim); Rampelberg; Rusch; Shorma; Soholt; Solano; Sutton; Tidemann; Tieszen;  
13 Vehle; White

14 Nays:

15 Van Gerpen

16 So the bill having received an affirmative vote of a two-thirds majority of the members-  
17 elect, the President declared the bill passed and the title was agreed to.

18 HB 1098: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the  
19 exemption of motor vehicles from the motor vehicle excise tax.

20 Was read the second time.

21 The question being "Shall HB 1098 pass?"

22 And the roll being called:

23 Yeas 34, Nays 1, Excused 0, Absent 0

24 Yeas:

25 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Ewing; Fiegen; Frerichs; Greenfield  
26 (Brock); Haggard (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie);  
27 Jensen (Phil); Monroe; Novstrup (David); Olson; Omdahl; Otten (Ernie); Parsley; Peters;  
28 Peterson (Jim); Rampelberg; Rusch; Shorma; Soholt; Solano; Sutton; Tidemann; Tieszen; Van  
29 Gerpen; White

30 Nays:

31 Vehle

1 So the bill having received an affirmative vote of a majority of the members-elect, the  
2 President declared the bill passed and the title was agreed to.

3 HB 1008: FOR AN ACT ENTITLED, An Act to restrict access to certain restrooms and  
4 locker rooms in public schools.

5 Was read the second time.

6 1008rb

7 Sen. Heinert moved that HB 1008 be amended as follows:

8 On page 1, line 8, of the House engrossed bill, delete "Every" and insert "A school board  
9 may adopt a policy that every".

10 On page 1, line 9, after "school" insert "in the district".

11 On page 1, line 10, delete "shall be" and insert "is".

12 On page 1, line 10, after "and" insert "may be".

13 On page 1, line 10, after "addition," insert "the policy may request that".

14 Which motion lost.

15 1008rc

16 Sen. Hunhoff (Bernie) moved that HB 1008 be amended as follows:

17 On page 2, after line 12 of the House engrossed bill, insert:

18 " Section 4. That the code be amended by adding a NEW SECTION to read:

19 If any public school district, school district officer or employee, school board, or school  
20 board member is sued in state or federal court as a result of a decision based upon and consistent  
21 with a student's biological sex, notwithstanding any assertion that the student's gender is  
22 different than the student's biological sex, the attorney general shall represent the school district,  
23 school district officer or employee, school board, or school board member at no cost to the  
24 school district, school district officer or employee, school board, or school board member, and  
25 the State of South Dakota shall assume all financial responsibility for the legal expenses. The  
26 legal expenses for which the state is responsible include any award for monetary damages or  
27 attorneys' fees and costs which may be awarded and for which the school district, school district  
28 officer or employee, school board, or school board member would otherwise be responsible.

1 Section 5. That the code be amended by adding a NEW SECTION to read:

2 There is established in the state treasury the transgender discrimination defense fund. The  
3 fund shall be maintained separately and administered by the Bureau of Administration. The fund  
4 may be used for plaintiff attorney fee awards, retention of outside counsel, settlement costs, or  
5 other litigation expenses not otherwise eligible to be paid under § 3-22-1. Unexpended money  
6 and any interest that may be credited to the fund shall remain in the fund. The transgender  
7 discrimination defense fund, including any subfund created within it, is hereby continuously  
8 appropriated and shall be budgeted through the informational budget process. The creation and  
9 funding of this fund does not constitute a waiver of the state's sovereign immunity.

10 Section 6. There is hereby appropriated from the general fund the sum of one thousand  
11 dollars (\$1,000), or so much thereof as may be necessary, to the transgender discrimination  
12 defense fund for the purpose of providing legal defense in accordance with the provisions of  
13 section 4 of this Act."

14 Which motion lost.

15 The question being "Shall HB 1008 pass as amended?"

16 And the roll being called:

17 Yeas 20, Nays 15, Excused 0, Absent 0

18 Yeas:

19 Brown; Cammack; Curd; Ewing; Greenfield (Brock); Haggar (Jenna); Haverly; Heineman  
20 (Phyllis); Holien; Jensen (Phil); Monroe; Novstrup (David); Olson; Omdahl; Otten (Ernie);  
21 Rampelberg; Rusch; Shorma; Solano; Van Gerpen

22 Nays:

23 Bradford; Buhl O'Donnell; Fiegen; Frerichs; Heinert; Hunhoff (Bernie); Parsley; Peters;  
24 Peterson (Jim); Soholt; Sutton; Tidemann; Tieszen; Vehle; White

25 So the bill having received an affirmative vote of a majority of the members-elect, the  
26 President declared the bill passed and the title was agreed to.

## 27 **SIGNING OF BILLS**

28 The President publicly read the title to

29 HB 1011: FOR AN ACT ENTITLED, An Act to repeal certain obsolete and unnecessary  
30 statutes concerning game preserves and refuges.

1 HB 1031: FOR AN ACT ENTITLED, An Act to revise certain provisions pertaining to  
2 weights and measures.

3 HB 1084: FOR AN ACT ENTITLED, An Act to define when concurrent employment may  
4 be used to calculate earnings in workers' compensation cases.

5 And signed the same in the presence of the Senate.

## 6 COMMEMORATIONS

7 SC 12 Introduced by: Senator Peters and Representatives Hawks and Steinhauer

8 A LEGISLATIVE COMMEMORATION, Commending and honoring the West Central High  
9 School Boys Cross Country Team for its accomplishments.

10 WHEREAS, the West Central Boys Cross Country Team, including Caleb Carlson, Shane  
11 Ens, Carter Heumiller, Silas Hoffman, Caden Ideker, Isaiah Jorgenson, Declan MacArthur,  
12 Joseph Michaels, Benjamin Miles, Shon Miles, Chase Otheim, Taylor Otheim, Braden Peters,  
13 Derick Peters, Caleb Schulte, Gabe Smith, Griffin Smith, Ryan Titus, Carson Ulrich, Carter  
14 Ulrich, Ryan Vinzant, and Asher Wahl, coached by Rebecca Wahl, won all but two meets in the  
15 2015 season; and

16 WHEREAS, the team was the Dakota XII Champions and Region 2A Champions, with six  
17 members placing in the top twenty with an average time of sixteen minutes and thirty-five  
18 seconds, a full minute average ahead of the next placing team; and

19 WHEREAS, the team was the Boys State A Cross Country Champion, with Derick Peters  
20 placing second, Braden Peters placing eleventh, Ryan Titus placing twelfth, Gabe Smith placing  
21 sixteenth, Asher Wahl placing thirtieth, and Taylor Otheim placing fifty-sixth:

22 NOW, THEREFORE, BE IT COMMEMORATED, by the Ninety-First Legislature of the  
23 State of South Dakota, that the Legislature commends and honors the West Central High School  
24 Boys Cross Country Team for its dedication and hard work.

25 Sen. Omdahl moved that the Senate do now adjourn, which motion prevailed and at 4:22  
26 p.m. the Senate adjourned.

27 Kay Johnson, Secretary